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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application of: Wilkerson, Lawrence Edwin)

Serial No: 10/678,335 ) Group No.:3714

Filed: 10/03/2003 ) Examiner: Harris, Chandra L

For: System and Method for Determining Empathy)

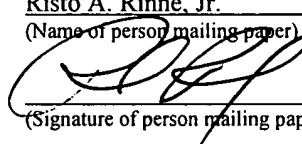
Commissioner of Patents and Trademarks

**CERTIFICATE OF MAILING (37 CFR 1.8a)**

I hereby certify that this paper, along with any paper referred to as being attached or enclosed, is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Issue Fee, Commissioner for Patents, Alexandria, VA 22313-1450 on July 10, 2006 and which is also being faxed today to 703 872-9306.

Risto A. Rinne, Jr.  
(Name of person mailing paper)

Date:July 10, 2006

  
(Signature of person mailing paper) Reg. 37,055

**Petition to Withdraw the Holding of Abandonment (no fee required)**  
**to the Commissioner under 37 CFR 1.181 (a)**  
**when there is no fault on the part of the applicant.**

In response to the notice of abandonment that was received on 4/13/06 for the above-identified application, the application was abandoned because of a lack of formal drawings. This is incorrect.

1. Formal drawings were submitted on August 2, 2004. A copy of a postcard confirming such is attached hereto.
2. An office action was dated on November 3, 2004 requesting formal drawings and, accordingly, did not rely on the recently submitted formal drawings.
3. A subsequent office action was dated November 24, 2004 that included a request to disregard the previously sent Office Action. Accordingly, the request for additional drawings is waived. A copy of the relevant page is attached hereto.
4. A copy of the Private PAIR status that was obtained on March 9, 2006 shows a correction (third entry down) on April 25, 2006 that states **drawings are NOT required**. It also confirms that the Issue Fee payment has been verified. A copy is attached hereto. Accordingly, proof that the applicant responded in a timely fashion is provided.

5. Any delay in responding to the instant action is unavoidable and is due to a death in the immediate family within the first month of receipt of the office action and also, in part, due to the effects of spousal surgery also during this period of time.
6. No fee is required.

Please withdraw the holding of abandonment and allow the patent to issue without lapse.

Respectfully submitted,



(Signature of Attorney/agent)

Reg. No. 37,055

Risto A. Rinne, Jr.

(Type or print name of Atty./agent)

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(P.O. Address)

San Rafael, CA 94901



Inventor: Lawrence K. Wilkerson et al

Application No.: Date Filed: 10/31/03

Title: System and Method for Determining

Due Date: \_\_\_\_\_

Enclosed are the following:

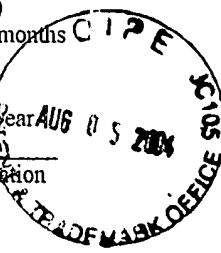
- Utility Application  
No. pages \_\_\_\_\_
- Design Application  
No. pages \_\_\_\_\_
- Provisional Application  
No. pages \_\_\_\_\_
- RCE Application
- \_\_\_\_\_ Application
- Transmittal
- Drawings
  - Informal \_\_\_\_\_ sheets
  - Formal 4 sheets (2sets)
  - Figures 1-6
- Oath/Declaration
- Power of Attorney
- Assignment
- Other \_\_\_\_\_

Date Mailed: 8/2/04

- Amendment/Response
- Petition \_\_\_\_\_
- Request \_\_\_\_\_
- Notice of Appeal
- Appeal Brief (in triplicate)
- Extension of Time \_\_\_\_\_ months
- Issue Fee
- Certificate of Correction
- Maintenance Fee \_\_\_\_\_ year AUG 05 2004
- Check No. \_\_\_\_\_ Amount \_\_\_\_\_
- Deposit Account Authorization
- Certificate of Mailing
- Express Mail Certificate No. \_\_\_\_\_
- Small Entity Statement
- Assignment Recordation Form

RECEIVED

AUG 09 2004





## DETAILED ACTION

Note: Please disregard the previous office action in lieu of the following action.

***Claim Rejections - 35 USC § 101***

1. Claims 1 and 2 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter because it is not within one of the four statutory categories of inventions listed in 35 U.S.C. 101. Although it is initially characterized in the preamble as a "product", a plurality of questions in which a first and second participant provide answers to is merely an abstract idea.
2. Claims 3-23 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The invention is characterized as a system. Usually, a system is directed to apparatus or structure in one form or another. However, there is no structure disclosed corresponding to the "means" recited. Moreover, a claim to "software" is not statutory and neither is its manipulation. The claims are indefinite because "means for" recitations without corresponding structure in the specification are incapable of reasonably precise interpretation. Also, the claims have no practical utility. Establishment of a level of empathy appertaining to an individual is so nebulous as to lack assuredness and predictability implicit in the requirement that a claimed invention be concrete and tangible.
3. Claims 24-28 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.



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JUL 14 2006

## PATENT APPLICATION INFORMATION RETRIEVAL



Search results as of: 3-9-2006::17:45:15 E.T.

Search results for application number: 10/678,335			
Application Number:	10/678,335	Customer Number:	45498
Filing or 371(c) Date:	10-03-2003	Status:	Publications -- Issue Fee Payment Verified
Application Type:	Utility	Status Date:	12-13-2005
Examiner Name:	HARRIS, CHANDA L	Location:	ELECTRONIC
Group Art Unit:	3714	Location Date:	-
Confirmation Number:	2559	Earliest Publication No:	-
Attorney Docket Number:	EMPATHY	Earliest Publication Date:	-
Class/ Sub-Class:	434/236	Patent Number:	-
First Named Inventor:	Lawrence Wilkerson, San Rafael, CA (US)	Issue Date of Patent:	-
Title Of Invention:	SYSTEM AND METHOD FOR DETERMINING EMPATHY		

## Search Options

<a href="#">Display References</a>
<a href="#">Image File Wrapper</a>
<a href="#">Patent Term Adjustment History</a>
<a href="#">Publication Review</a>

## File History

Date	Contents Description
01-26-2006	Dispatch to FDC
01-26-2006	Application Is Considered Ready for Issue
04-25-2005	Correction - Drawing NOT Required
07-19-2005	Issue Fee Payment Verified
07-19-2005	Issue Fee Payment Received
04-25-2005	Mail Notice of Allowance
04-25-2005	Mail Formal Drawings Required
04-25-2005	Mail Examiner's Amendment
04-21-2005	Formal Drawings Required
04-21-2005	Notice of Allowance Data Verification Completed
04-21-2005	Case Docketed to Examiner in GAU
04-21-2005	Examiner's Amendment Communication
04-01-2005	Correspondence Address Change
03-17-2005	Date Forwarded to Examiner
02-28-2005	Response after Non-Final Action
11-24-2004	Mail Non-Final Rejection